



of accident and filed a timely written claim. Claimant requested preliminary hearing benefits consisting of medical treatment, change of physician and temporary partial general disability compensation. The Administrative Law Judge denied the requested preliminary hearing benefits.

Respondent argued that claimant's Application for Review should be dismissed because the Appeals Board does not have jurisdiction to review the subject preliminary hearing order. The Appeals Board agrees with the respondent. The issues raised by the claimant are not listed as jurisdictional issues that grant Appeals Board review in the preliminary hearing statute found at K.S.A. 44-534a, as amended by S.B. 649 (1996). Furthermore, the Administrative Law Judge has specific authority pursuant to the preliminary hearing statute, K.S.A. 44-534a, as amended by S.B. 649 (1996), to grant or deny medical treatment. Additionally, K.S.A. 44-510(c)(1), as amended by S.B. 649 (1996), grants the administrative law judge authority to appoint another physician if the administrative law judge finds that the services of the current authorized physician are not satisfactory. In the instant case, the Administrative Law Judge did not make a finding in reference to claimant's request for change of physician because this issue would have been moot as he had previously found that claimant did not have a need for further medical treatment. Accordingly, the Appeals Board finds that it is within the Administrative Law Judge's discretion and authority to either grant or deny a request for medical treatment or a change of physician at a preliminary hearing.

Respondent also argued that the Administrative Law Judge does not have the authority to award temporary partial general disability compensation at a preliminary hearing. The Appeals Board has previously ruled that an administrative law judge has the authority to enter a preliminary hearing order for payment of temporary partial general disability compensation. See Verna K. Brown v. Lawrence-Douglas County Board of Health, Docket No. 205,848 (March 1996). Therefore, since the Administrative Law Judge did have authority to grant or deny temporary partial general disability benefits, he did not exceed his jurisdiction when these benefits were denied. Accordingly, the Appeals Board concludes, at this juncture of the proceeding, it does not have jurisdiction to review this preliminary hearing Order.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that this appeal should be, and is hereby, dismissed and the preliminary hearing Order of Administrative Law Judge Steven J. Howard dated June 5, 1996, remains in full force and effect.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of July 1996.

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BOARD MEMBER

c:     Lawrence D. Flick, Prairie Village, KS  
       Kip A. Kubin, Overland Park, KS  
       Steven J. Howard, Administrative Law Judge  
       Philip S. Harness, Director